

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of the:

STANDARD CHLORINE CHEMICAL Co.
SUPERFUND SITE

Apogent Transition, Corp.
Beazer East, Inc.
Cooper Industries, LLC
Occidental Chemical Corporation

Respondents.

Proceeding Under Sections 104, 107 and 122
of the Comprehensive Environmental
Response, Compensation, and Liability Act, as
amended, 42 U.S.C. §§ 9604, 9607 and 9622.

U.S. EPA Region 2
CERCLA Docket No. 02-2013-2015

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION AND FOCUSED FEASIBILITY STUDY

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**ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION AND FOCUSED FEASIBILITY STUDY**

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and Apogent Transition, Corp., Beazer East, Inc., Cooper Industries, LLC, and Occidental Chemical Corporation ("Respondents"). The Agreement concerns the preparation and performance of a remedial investigation ("RI") and focused feasibility study ("FFS") at the Standard Chlorine Chemical Co., Inc. Site, located at 1025 through 1035 Belleville Turnpike, Kearny, New Jersey ("Site"), and the reimbursement for future response costs incurred by EPA in connection with the RI/FFS.
2. This Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994 by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated on November 23, 2004 by the Regional Administrator of EPA Region 2 to the Director of the Emergency and Remedial Response Division by EPA Region 2 Delegation Nos. 14-14-C and 14-14-D.
3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the relevant Federal and State natural resource trustees on April 9, 2010 of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal and/or State trusteeship.
4. EPA and Respondents recognize that this Agreement has been negotiated in good faith as a settlement and that the actions undertaken by Respondents in accordance with this Agreement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings, other than proceedings initiated by the United States to implement or enforce this Agreement, the validity of the findings of fact, conclusions of law and determinations in this Agreement. Respondents agree to comply with and be bound by the terms of this Agreement and further agree that they will not contest the basis or validity of this Agreement or its terms.

II. PARTIES BOUND

5. This Agreement applies to and is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's

responsibilities under this Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Agreement. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Agreement, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Agreement and comply with this Agreement. Respondents shall be responsible for any noncompliance with this Agreement.

8. The undersigned representatives of Respondents certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind Respondents to this Agreement.

III. STATEMENT OF PURPOSE

9. In entering into this Agreement, the objectives of EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a RI as more specifically set forth in the Statement of Work ("SOW") attached as Appendix A to this Agreement; (b) to identify and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site by conducting a FFS as more specifically set forth in the SOW in Appendix A to this Agreement; and (c) to recover response and oversight costs incurred by EPA with respect to this Agreement.

10. The Work conducted under this Agreement is subject to approval by EPA and shall provide all appropriate and necessary information to assess Site conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondents shall conduct all Work under this Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "Agreement" shall mean this Administrative Settlement Agreement and Order on

Consent, the SOW, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Agreement upon approval by EPA. In the event of conflict between this Agreement and any appendix or other incorporated documents, this Agreement shall control.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "Effective Date" shall be the effective date of this Agreement as provided in Section XXIX.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

f. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry ("ATSDR") costs, the costs incurred pursuant to Paragraph 64 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 50 (Emergency Response and Notification of Releases), and Paragraph 94 (Work Takeover). Future Response Costs shall also include all Interim Response Costs.

h. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

i. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

j. "Interim Response Costs" shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between November 30, 2009 and the Effective Date, or (b) incurred between November 30, 2009 and the Effective Date, but paid after that date.

k. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

l. "NJDEP" shall mean the New Jersey Department of Environmental Protection and any successor departments or agencies of the State of New Jersey.

m. "Paragraph" shall mean a portion of this Agreement identified by an Arabic numeral.

n. "Parties" shall mean EPA and Respondents.

o. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

p. "Respondents" shall mean Apogent Transition, Corp., Beazer East, Inc., Cooper Industries, LLC, and Occidental Chemical Corporation.

q. "Section" shall mean a portion of this Agreement identified by a Roman numeral.

r. "Site" shall mean the Standard Chlorine Chemical Co., Inc. Superfund Site located at 1025 through 1035 Belleville Turnpike, Town of Kearny, Hudson County, New Jersey on the tax map of the Township of Kearny as Block 287, Lots 48, 49, 50, 51, 52 and 52.01 (the "Property"). The Site occupies approximately 25 acres and is located in an industrial area of Hudson County. The Site is bounded by the former Diamond Shamrock Site to the north, the Hackensack River to the east, the Koppers Company, Inc. Seaboard Site ("Koppers Seaboard Site") to the south, and Belleville Turnpike to the west. In accordance with the NCP, the Site includes the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action to be performed at the Property.

s. "State" shall mean the State of New Jersey.

t. "Statement of Work" or "SOW" shall mean the Statement of Work for development of a RI/FFS for the Site, as set forth in Appendix A to this Agreement. The Statement of Work is incorporated into this Agreement and is an enforceable part of this Agreement as are any modifications made thereto in accordance with this Agreement.

u. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42

U.S.C. § 6903(27); and (4) any mixture containing any of the constituents noted in (1), (2), and (3) above.

v. "Work" shall mean all activities Respondents are required to perform under this Agreement, except those required by Section XIV (Retention of Records).

V. EPA FINDINGS OF FACT

12. The Site is located at 1025 through 1035 Belleville Turnpike, Town of Kearny, Hudson County, New Jersey on Block 287, Lots 48, 49, 50, 51, 52 and 52.01. The Site occupies approximately 25 acres and is located in an industrial area of Hudson County. The Site has undergone implementation of certain interim response actions approved by EPA and overseen by NJDEP. The Site is bounded to the east by the Hackensack River, to the west by Belleville Turnpike, to the north by the former Diamond Shamrock Site, and to the south by the Koppers Seaboard Site. Both the Diamond Shamrock and Koppers Seaboard Sites are being addressed under the State of New Jersey's Site Remediation Program, with oversight by NJDEP.

13. Although the Site is zoned for heavy industrial use, it lies in the Hackensack Meadowlands which has been identified by the United States Fish and Wildlife Service as a Significant Habitat Complex of the New York Bight Watershed.

14. On or about October 12, 2010, the Town of Kearny, New Jersey completed a tax foreclosure on Lots 48, 49, 50, 51, 52 and 52.01 and is now the owner of the Site.

15. Standard Chlorine Chemical Company ("Standard Chlorine") is the former owner of Lot 50 of the Site, and its wholly-owned subsidiary Standard Naphthalene formerly owned Lots 48, 49, 51, 52 and 52.01. Beazer, formerly known as Koppers Company, Inc. and Beazer Materials and Services, Inc., previously owned portions of the Site and conducted activities on those portions of the Site that it owned. Occidental Chemical Corporation is a corporate successor to the Diamond Shamrock Chemical Company, which produced chromium ore processing residue ("COPR") at the neighboring Diamond Shamrock Site. According to the 1993 Remedial Investigation Report prepared by Roy F. Weston, COPR was used as fill on roughly 85% of the Site.

16. Operations began at the Site in 1916 and continued until 1993, when all Site activity ceased. In 1916, the White Tar Company began the refinement of crude coal-tar naphthalene on Lots 48 and 49 to produce moth preventatives and other naphthalene products. In 1929, American Tar Products, Inc. acquired the stock of the White Tar Company and continued the White Tar Company's manufacturing activities at the Site. In 1934, the Koppers Gas & Coke Company ("Koppers") – a corporate predecessor of Beazer – acquired the stock of American Tar Products and, in 1935, American Tar Products transferred its assets, including the White Tar Company stock, to Koppers. In 1942, the White Tar Company was liquidated and its assets – including the land and operations on the portions of the Site where White Tar operated – were transferred to Koppers. In 1944, Koppers was merged into Beazer and, in 1946, Beazer acquired Lots 51, 52, and 52.01 from Thomas A. Edison, Inc. Throughout this time, the refinement of naphthalene and production of naphthalene

products continued.

17. In 1962, Standard Naphthalene acquired Lots 48, 49, 51, 52 and 52.01 and the plant from Beazer. Standard Naphthalene processed liquid petroleum naphthalene from 1963 to 1980 on these lots. Standard Naphthalene also leased a processing building (the "Distillation Building") and a number of tanks located on Lot 49 to Standard Chlorine from 1970 to 1980, which Standard Chlorine used for separating and storing 1,2,4-trichlorobenzene. Standard Naphthalene discontinued business operations in 1981.

18. Operations on Lot 50 of the Site began in 1928 with construction of a lead-acid battery manufacturing facility by Thomas A. Edison, Inc. ("Edison"). Edison made batteries at this location until early 1954. In 1954, Crown Rubber Products purchased Lot 50, and from 1954 to 1962, Crown Rubber Products and its corporate successor, Keaton Rubber Products, operated a facility for molded rubber products at Lot 50. From mid-1954 to some point in 1963, The Tanatex Chemical Corporation, through leaseholds that expired in 1964 (unless surrendered or terminated at an earlier time), operated on a portion of Lot 50 for the manufacture of dye carriers. From approximately 1957 to 1962, Keaton Rubber Products leased a portion of Lot 50 to The Tanatex Chemical Corporation. Apogent Transition Corp. is the corporate successor by merger to The Tanatex Chemical Corporation.

19. In 1957, Edison merged with McGraw Electric Company to form McGraw-Edison Company. In 1985, Cooper Industries, Inc. acquired through public tender offer McGraw-Edison Company. In 2004, McGraw Edison Company merged with Cooper Industries, Inc., which then changed its name to Cooper Industries, LLC.

20. In 1962, Standard Chlorine acquired Lot 50 from Keaton Rubber Products. On Lot 50, Standard Chlorine manufactured and packaged dichlorobenzene products, such as moth crystals and flakes, from 1962 to 1981. From 1962 to 1993, also on Lot 50, Cloroben Chemical Corporation, a subsidiary of Standard Chlorine, formulated and packaged drain-cleaner products using raw materials such as orthodichlorobenzene, sulfuric acid, hydrochloric acid, methyl benzoate, terpene solvents, and enzymes. All chemical manufacturing operations on Lot 50 were discontinued in 1993.

21. It is reported in Standard Chlorine's May 1993 Remedial Investigation Report that Standard Chlorine refined mixed dichlorobenzene isomers by continuous fractional crystallization on Lot 50 resulting in the average annual production of an estimated 2.5 million pounds of orthodichlorobenzene during its years of operation. It is also reported that an annual average of 1.5 million pounds of 1,2,4-trichlorobenzene were produced onsite on Lot 49 by Standard Chlorine during its years of operation. An estimated 1,500 pounds per year and 5,000 pounds per year of 1,2,4-trichlorobenzene were released in air emissions and wastewater discharges, respectively.

22. At the time of listing on the National Priorities List ("NPL"), areas of concern at the Site included contaminated soils, two lagoons on the eastern portion of the Site with an approximate surface area of 33,000 square feet and an average depth of 6 feet, and PCB- and lead-contaminated soils and concrete near Building 2 on the western side of the Site. The contaminants at the Site included, but are not limited to, PCBs, chlorinated benzene compounds, naphthalene, chromium

including hexavalent chromium, lead, furans and dioxins, including 2,3,7,8 tetrachlorodibenzo-p-dioxin ("TCDD"). The highest levels of TCDD detected in the lagoon system was 268 micrograms per kilogram ("mg/kg"). TCDD was detected in a sediment sample in the Hackensack River at 96.4 nanograms per kilogram. COPR underlies roughly 85 percent of the Site, according to a Remedial Investigation Report prepared in 1993 by Roy F. Weston as part of an NJDEP-lead cleanup. Data from 1991 revealed maximum total chromium and hexavalent chromium concentrations in the fill of 34,900 mg/kg and 270 mg/kg, respectively. Yellow-colored sediments were evident in the drainage ditch on the southern boundary of the Site. Sampling has identified total chromium concentrations in on-site sediment and surface water as high as 16,400 mg/kg and 1,200 mg per liter, respectively. 1,2,4-trichlorobenzene has been identified at a concentration of 200,000 mg/kg in Site soil, and essentially pure naphthalene has been identified in soil and sediment samples.

23. TCDD is a CERCLA-designated hazardous substance as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). EPA has classified TCDD as a probable human carcinogen. The most noted health effect in people exposed to large amounts of TCDD is chloracne, a severe skin disease with lesions that occur mainly on the face and upper body. In addition, exposure to Site contaminants such as PCBs, lead, benzene, dichlorobenzenes, chlorobenzene, trichlorobenzenes, naphthalene, and chromium by direct contact, inhalation, or ingestion may cause adverse human health effects.

24. Data from sampling events between 1992 and 2002 show that a release of site-related hazardous substances has occurred to an on-site stream, the southern drainage ditch, the Hackensack River and adjacent wetlands. Prior to completion of the Interim Response Action ("IRA"), surface runoff from contaminated soils at the Site may have drained into the Hackensack River via: (1) a drainage pipe along the northern boundary of the Site; (2) a drainage ditch that runs along the southern boundary of the Site; and (3) overland runoff that flows directly from the Site to the Hackensack River. In addition, the base of the waste material in the unlined lagoons is in close proximity with the shallow water table, which, prior to completion of the IRA, the shallow water table discharged to the Hackensack River and the southern drainage ditch.

25. Prior to completion of the IRA, persons potentially exposed to contaminants at the Site included on-site workers, workers on neighboring properties, Site visitors, trespassers and recreational users of the Hackensack River. Crabs, fish, and water birds also may have been exposed. Due to dioxin and PCB contamination, originating in part from the Site, the State has issued Fish Consumption Advisories for consumption of certain fish and blue crab for the Hackensack River. However, fishing and crabbing for consumption regularly occurs upstream and downstream from the Site.

26. In October 1989, Standard Chlorine entered into an Administrative Consent Order ("1989 ACO") with the NJDEP to conduct a remedial investigation and perform a remedial action at the Site. In April 1990, the NJDEP entered into a separate Administrative Consent Order (the "1990 ACO") with Respondent Occidental and Chemical Land Holdings, Inc. to address the COPR at 26 sites in New Jersey, one of which is the Site.

27. Since 1984 several interim response measures have been undertaken, work plans prepared, and studies and remedial investigations completed at the Site under NJDEP's authority and oversight. In addition, NJDEP approved a Site-wide IRA, which was implemented by, among others, Standard Chlorine and Respondent Beazer. The IRA includes, among other things, construction of a bulkhead along the Hackensack River, dredging of river sediments adjacent to the bulkhead, excavation and placement in approved consolidation areas of contaminated soils, stream sediments, and other site materials, installation of a slurry wall enclosing the Property, the Diamond Shamrock property to the north and a small area of the Koppers Seaboard property to the south, construction and operation of a hydraulic control system, and dewatering and installation of an interim surface cover over the lagoons. In addition, to accommodate implementation of the interim response measures and to eliminate the need for maintenance obligations under the 2010 AOC referenced in paragraph 30 below, the following buildings were demolished in three separate tracks: (a) Track 1 demolition: Buildings 16, 19 and 20; (b) Track 2 demolition: Buildings 15, 17, 18 and 21; and (c) Track 3 demolition: Buildings 5, 6, 7, 8, 9, 10 and 14.

28. In April 2003, EPA proposed the Site for placement onto the NPL, pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. §9605(a)(8)(B). See 68 Fed. Reg. 23094. The Site was placed on the NPL in September 2007. See 72 Fed. Reg. 53463.

29. As a result of the Site's NPL status, EPA conducted a removal site evaluation ("RSE") at the Site on April 8, 2008 and documented the findings in an RSE Report issued on January 27, 2009. As set forth in the RSE Report, EPA found that a removal action was warranted at the Site to address the potential for TCDD releases from certain buildings in the eastern portion of the Site, including one building that Standard Chlorine formerly used for processing 1, 2, 4-trichlorobenzene, a substance associated with potential for dioxin contamination.

30. EPA has identified Respondents as potentially responsible parties ("PRPs") for the Site. Pursuant to Administrative Settlement Agreement and Order on Consent ("AOC"), CERCLA 02-2010-2012 ("2010 AOC"), Standard Chlorine and Respondent Beazer agreed to perform certain removal activities to reduce the threat of direct contact with hazardous substances at the Site and minimize the potential for off-site migration. Removal activities pursuant to the 2010 AOC have been completed.

VI. EPA CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, EPA has determined that:

31. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

32. The contamination found at the Site, as identified in Paragraphs 22-23 of the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

33. The conditions described in Paragraphs 24-25 of the Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

34. Each Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

35. Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622 as follows:

a. Each Respondent is, or is the successor to, a person who generated the hazardous substances found at the Site, who at the time of disposal of any hazardous substances owned or operated the Site, or who arranged for disposal or transport for disposal of hazardous substances at the Site. Each Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

b. Respondents Apogent Transition, Beazer, and Cooper Industries were the "owners" and/or "operators" of the facility (or the successors to same) at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

c. Respondents (or their predecessors) arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances at the facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

36. The actions required by this Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

37. EPA has determined that Respondents are qualified to conduct the RI/FFS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

38. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Agreement, including, but not limited to, all appendices to this Agreement and all documents incorporated by reference into this Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

39. Selection of Contractors, Personnel. All Work performed under this Agreement shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Agreement, and before the Work outlined below and in the SOW begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Agreement is contingent on Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Agreement. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within 30 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Agreement and to conduct a complete RI/FFS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FFS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

40. Within 45 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 15 days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA seven days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Agreement shall constitute receipt by Respondents.

41. EPA has designated Alison Hess of the Emergency and Remedial Response Division, Special Projects Branch, as its EPA Project Coordinator. EPA will notify Respondents of a change

of its designated EPA Project Coordinator. Except as otherwise provided in this Agreement, Respondents shall direct all submissions required by this Agreement to:

Special Projects Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 19th Floor
New York, New York 10007-1866
Attn: Alison Hess, Standard Chlorine Chemical Co. EPA Project Coordinator

1 electronic copy to:

Leena Raut, Esq.
Raut.Leena@epa.gov

Frances Zizila, Esq.
Zizila.Frances@epa.gov

1 paper copy to:

Jay Nickerson, Case Manager
New Jersey Department of Environmental Protection
Brownfield Remediation and Reuse Element
401 E. State Street
PO Box 028
Trenton, NJ 08625

42. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP and shall be responsible for all approvals under this Agreement. In addition, EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Agreement, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Agreement shall not be cause for the stoppage or delay of Work.

43. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FFS, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FFS Work Plan.

IX. WORK TO BE PERFORMED

44. Respondents shall conduct the RI/FFS in accordance with the provisions of this Agreement, the SOW, CERCLA, the NCP and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, EPA Region 2's Clean and Green Policy (available at www.epa.gov/region02/superfund/green_remediation/policy.html) and guidances referenced in the SOW, as may be amended or modified by EPA. The RI shall consist of evaluating existing data and collecting any necessary additional data to characterize site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The FFS shall determine and evaluate alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Agreement.

45. The major tasks that Respondents must perform are described in the SOW, with the final task identified in the SOW being submission of the FFS Report. Upon receipt of the draft FFS Report, EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

46. Modification of the RI/FFS Work Plan.

a. If at any time during the RI/FFS process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA Project Coordinator within 30 days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into plans, reports and other deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA determines that the immediate threat

or the unanticipated or changed circumstances warrant changes in the RI/FFS Work Plan, EPA shall modify or amend the RI/FFS Work Plan in writing accordingly. Respondents shall perform the RI/FFS Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI/FFS Work Plan, other additional work may be necessary to accomplish the objectives of the RI/FFS. Respondents agree to perform these response actions in addition to those required by the initially approved RI/FFS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FFS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to EPA within seven days of receipt of the EPA request. If Respondents object to any modification determined by EPA to be necessary pursuant to this Paragraph, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FFS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI/FFS Work Plan. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions at the Site.

47. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed ten cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the remedial investigation and focused feasibility study. Respondents shall provide the information required by Subparagraph 47.a and 47.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving

facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

48. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FFS. In addition to discussion of the technical aspects of the RI/FFS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

49. Progress Reports. In addition to the plans, reports and other deliverables set forth in this Agreement, Respondents shall provide to EPA monthly progress reports by the 15th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Agreement during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FFS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

50. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the National Response Center Hotline at (800) 424-8802 and the EPA Project Coordinator or, in the event of his/her unavailability, the Chief of the Special Projects Branch of the Emergency and Remedial Response Division at (212) 637-4435, of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the EPA Project Coordinator, the Chief of the Special Projects Branch of the Emergency and Remedial Response Division at (212) 637-4435, and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within seven days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

51. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Agreement, in a notice to Respondents EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within 21 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

52. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 51(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 51(c) and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

53. Resubmission.

a. Upon receipt of a notice of disapproval, Respondents shall, within 21 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 21 day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 54 and 55.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition or modification of the following deliverables: RI/FFS Work Plan, Draft RI Report, Treatability Testing Work Plan (if necessary) and Draft FFS Report. While awaiting EPA approval, approval on condition or modification of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under this Agreement.

d. For all remaining deliverables not listed above in Subparagraph 53.c., Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from

proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FFS.

54. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to Respondents' right to invoke the procedures set forth in Section XV (Dispute Resolution).

55. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

56. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FFS Report, Respondents shall incorporate and integrate information supplied by EPA into the final reports.

57. All plans, reports, and other deliverables submitted to EPA under this Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Agreement. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Agreement, the approved or modified portion shall be incorporated into and enforceable under this Agreement.

58. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

59. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW, the QAPP and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality

Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

60. Sampling.

a. All results of sampling, tests, modeling or other data generated by Respondents, or on Respondents' behalf, during the period that this Agreement is effective, shall be submitted to EPA in the next monthly progress report as described in Paragraph 49 of this Agreement. EPA will make available to Respondents validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify EPA at least 14 days prior to conducting significant field events as described in the SOW or RI/FFS Work Plan. At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) of any samples collected in implementing this Agreement. All split samples of Respondents shall be analyzed by the methods identified in the QAPP.

61. Access to Information.

a. Respondents shall provide to EPA, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Agreement, including, but not limited to, raw data, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, historical information or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to EPA, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate and clearly identify all documents or information submitted under this Agreement for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege or protection from disclosure recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide EPA with the following: 1) the title of the document, record, or information; 2)

the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Agreement shall be withheld on the grounds that they are privileged.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

62. In entering into this Agreement, Respondents waive any objections to any data gathered, generated, or evaluated by EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control ("QA/QC") procedures required by the Agreement or any EPA-approved RI/FFS Work Plans. If Respondents object to any other data relating to the RI/FFS, Respondents shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days of the monthly progress report containing the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

63. If the Site, or any other property where access is needed to implement this Agreement, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Agreement.

64. Where any action under this Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 90 days after the Effective Date, or as otherwise specified in writing by the EPA Project Coordinator. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, EPA may either (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the Agreement. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Agreement, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such tasks or activities. Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports and other deliverables.

65. Notwithstanding any provision of this Agreement, EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

66. Respondents shall comply with all applicable state and federal laws and regulations when performing the RI/FFS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

67. During the pendency of this Agreement and for a minimum of six years after commencement of construction of any remedial action, each Respondent shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until six years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature or description relating to performance of the Work.

68. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such documents, records or other information, and, upon request by EPA, Respondents shall deliver any such documents, records, or other information to EPA. Respondents may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege or protection from disclosure recognized by federal law. If Respondents assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege asserted by Respondents. However, no documents, records or other information created or generated pursuant to the requirements of this Agreement shall be withheld on the grounds that they are privileged.

69. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not mutilated, discarded, destroyed or otherwise disposed of any

records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential CERCLA liability by EPA, and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

70. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Agreement. The Parties shall attempt to resolve any disagreements concerning this Agreement expeditiously and informally.

71. If Respondents object to any EPA action taken pursuant to this Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 14 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 30 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted verbally but must be confirmed in writing.

72. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the level of Chief of the Special Projects Branch, or higher, will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Agreement. Respondents' obligations under this Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

XVI. STIPULATED PENALTIES

73. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 74 and 75 for failure to comply with any of the requirements of this Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Agreement or any activities contemplated under any RI/FFS Work Plan or other plan approved under this Agreement identified below, in accordance with all applicable requirements of law, this Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Agreement and within the specified time schedules established by and approved under this Agreement.

74. Stipulated Penalty Amounts - Work.

a. For the following major deliverables, stipulated penalties shall accrue in the amount of:

Penalty Per Violation Per Day Period of Noncompliance

\$ 1,500.00	1 st through 14 th day
\$ 2,500.00	15 th through 30 th day
\$ 5,000.00	31 st day and beyond

- i. Submission of name of the Project Coordinator to EPA pursuant to Section X of this Agreement;
- ii. Submission of RI/FFS Work Plan;
- iii. Submission of Baseline Ecological Risk Assessment Scope of Work (if required by EPA);
- iv. Submission of Draft RI Report;
- v. Submission of RI Report;
- vi. Submission of Draft FFS Report;
- vii. Submission of FFS Report.

b. For the following interim deliverables, stipulated penalties shall accrue in the amount of:

Penalty Per Violation Per Day Period of Noncompliance

\$ 1,000.00	1 st through 14 th day
\$ 1,500.00	15 th through 30 th day
\$ 2,500.00	31 st day and beyond

- i. Submission of Identification of Candidate Technologies Memorandum;
- ii. Submission of Treatability Testing Work Plan (if required by EPA);
- iii. Submission of Treatability Testing Evaluation Report (if required by EPA);

- iv. Submission of Memorandum on Exposure Scenarios and Assumptions;
- v. Submission of Pathway Analysis Report;
- vi. Submission of Baseline Human Health Risk Assessment;
- vii. Submission of Screening Level Ecological Risk Assessment;
- viii. Submission of Baseline Ecological Risk Assessment (if required by EPA); and
- ix. Submission of Development and Screening of Remedial Alternatives Technologies Memorandum (if required by EPA)].

75. Stipulated Penalty Amounts - Other. For failure to make timely payments pursuant to Section XX, or failure to submit timely or adequate monthly progress reports, or any other violations of this Settlement Agreement not specified above, stipulated penalties shall accrue in the amount of:

Penalty Per Violation Per Day Period of Noncompliance

\$ 500.00	1 st through 14 th day
\$ 1,000.00	15 th through 30 th day
\$ 2,500.00	31 st day and beyond

76. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 94 of Section XX (Reservation of Rights by EPA), Respondents shall be liable for a stipulated penalty in the amount of \$750,000.00.

77. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 72 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Agreement.

78. Following EPA's determination that Respondents have failed to comply with a requirement of this Agreement, EPA may give Respondents written notification of the same and describe the noncompliance. EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

79. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to EPA under this Section shall be made in accordance with the procedures set forth in Paragraph 87, and shall indicate that the payment is for stipulated penalties. At the time of payment, Respondents shall send notice that payment has been made to the EPA Project Coordinator, Site Attorney, and Cincinnati Finance Center in accordance with Paragraph 87.

80. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Agreement.

81. Penalties shall continue to accrue as provided in Paragraph 77 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

82. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 79.

83. Nothing in this Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA), Paragraph 94. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Agreement.

XVII. FORCE MAJEURE

84. Respondents agree to perform all requirements of this Agreement within the time limits established under this Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Agreement, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Agreement despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

85. If any event occurs or has occurred that may delay the performance of any obligation under this Agreement, whether or not caused by a *force majeure* event, Respondents shall notify EPA

orally within 48 hours of when Respondents first knew that the event might cause a delay. Within seven days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

86. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

87. Payments of Future Response Costs.

a. Respondents shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondents a bill requiring payment that includes a printout of cost data in EPA's financial management system, known as a SCORPIOS Report. Respondents shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 89 of this Agreement. Respondents shall make all payments required by this Paragraph in accordance the procedures set forth below.

b. Remit the amount of the payments to EPA by Electronic Funds Transfer ("EFT") to the Federal Reserve Bank of New York, accompanied by a statement providing the following information:

- (i) Amount of payment
- (ii) Title of Federal Reserve Bank Account to receive the payment: EPA
- (iii) Account Code for Federal Reserve Bank Account receiving the payment:
68010727
- (iv) Federal Reserve Bank ABA Routing Number: **021030004**
- (v) Name and address of Settling Parties
- (vi) Docket Number **CERCLA-02-2013-2015**
- (vii) Site/Spill Identifier: **02-RM**

(viii) Field Tag 4200 of the Fedwire message: D 68010727 Environmental Protection Agency

(x) SWIFT address:
FRNYUS33
33 Liberty Street
New York, NY 10045

c. To ensure that a payment is properly recorded, a letter should be sent at the time of payment that references the date of the EFT, the payment amount, that the payment is for Future Response Costs, the name of the Site, the Docket number, and the name and address of the party making payment to the United States, to the EPA Project Coordinator, Site Attorney and Financial Management Center, as follows:

Special Projects Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 19th Floor
New York, New York 10007-1866
Attn: Alison Hess, Standard Chlorine Chemical Co. Site EPA Project Coordinator

New Jersey Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866
Attn: Standard Chlorine Chemical Co. Site Attorney

U.S. Environmental Protection Agency
Cincinnati Finance Center, MS: NWD
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268
Attn: Finance (Richard Rice)
AcctsReceivable.CINWD@epa.gov

88. The total amount to be paid by Respondents pursuant to Subparagraph 87.a. shall be deposited in the Standard Chlorine Chemical Company Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

89. If Respondents do not pay Future Response Costs within 30 days of Respondents' receipt of a bill, Respondents shall pay Interest on the Future Response Costs, respectively. The Interest on unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other

remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 87.

90. Respondents may contest payment of any Future Response Costs under Paragraph 87 if they determine that EPA has made a mathematical error, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall within the 30 day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 87. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New Jersey and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 88. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 87. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY EPA

91. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Agreement, and except as otherwise specifically provided in this Agreement, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII. This covenant not to sue extends only to Respondents and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

92. Except as specifically provided in this Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

93. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Agreement;
- b. liability for costs not included within the definition of Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the ATSDR related to the Site.

94. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondents may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by EPA in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondents shall pay pursuant to Section XVIII (Payment of Response Costs). Notwithstanding any other provision of this Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENTS

95. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which Future Response Costs have or will be incurred, including any claim under the United States Constitution, the New Jersey Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Future Response Costs.

96. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 93 (b), (c), and (e) - (g), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

97. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

98. By issuance of this Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

99. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

100. No action or decision by EPA pursuant to this Agreement shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION PROTECTION

101. a. The Parties agree that this Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and that each Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may be otherwise provided by law, for "matters addressed" in this Agreement. The "matters addressed" in this Agreement are the Work and Future Response Costs.

b. The Parties agree that this Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondents have, as of the Effective Date, resolved their liability to the United States for the Work and Future Response Costs.

c. Except as provided in Section XXI (Covenant Not to Sue by Respondents) of this Agreement, nothing in this Agreement precludes the United States or Respondents from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Agreement. Nothing in this Agreement diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIV. INDEMNIFICATION

102. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States. Nothing in this Agreement, however, requires indemnification by Respondents for any claim or cause of action against the United States based on negligent action taken solely or directly by EPA (not including oversight or approval of plans or activities of the Respondents).

103. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

104. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site.

XXV. INSURANCE

105. At least 15 days prior to commencing any On-Site Work under this Agreement, Respondents shall secure, and shall maintain for the duration of this Agreement, comprehensive general liability insurance and automobile insurance with limits of \$1,000,000.00 combined single limit, naming the EPA as an additional insured. Within the same period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of workers' compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

106. Within 30 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of \$750,000.00 in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

f. a corporate guarantee to perform the Work by one or more of Respondents, including a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

107. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 106, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Agreement.

108. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 106.e. or 106.f. of this Agreement, Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, to EPA. For the purposes of this Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of \$1,000,000.00 for the Work at the Site shall be used in relevant financial test calculations.

109. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 106 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

110. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. INTEGRATION/APPENDICES

111. This Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Agreement and become incorporated into and enforceable under this Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Agreement. The following appendices are attached to and incorporated into this Agreement:

"Appendix A" is the SOW.

"Appendix B" is the map of the Site.

XXVIII. ADMINISTRATIVE RECORD

112. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FFS upon which selection of the response action may be based. Upon request of EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of EPA, Respondents shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondents and state, local or other federal authorities concerning selection of the response action. At EPA's discretion, Respondents shall establish a community information repository at or near the Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

113. This Agreement shall be effective on the date that the Agreement is signed by the Director, Emergency and Remedial Response Division, Region 2, or his delegatee.

114. This Agreement may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Agreement.

115. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval

required by this Agreement, or to comply with all requirements of this Agreement, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

116. When EPA determines that all Work has been fully performed in accordance with this Agreement, with the exception of any continuing obligations required by this Agreement, including but not limited to payment of Future Response Costs and record retention, EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI/FFS Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 46 (Modification of the Work Plan). Failure by Respondents to implement the approved modified RI/FFS Work Plan shall be a violation of this Agreement.

It is so ORDERED AND AGREED this May 3rd day of May, 2013.

BY: [Signature]
Walter Mugdan, Director
Emergency and Remedial Response Division
Region 2
U.S. Environmental Protection Agency

In the matter of Standard Chlorine Chemical Company Superfund Site - CERCLA Docket No. 02-2013-2015

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Agreement. Respondent hereby consents to the issuance of this Agreement and to its terms. The individuals executing this Agreement on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Agreement and to bind Respondent thereto.

Agreed this 16th day of April, 2013.

For Respondent Apogent Transition Corp.

By: 

Jonathan C. Wilk

Title: Assistant Secretary

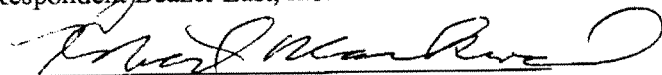
In the matter of Standard Chlorine Chemical Company Superfund Site - CERCLA Docket No. 02-2013-2015

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Agreement. Respondent hereby consents to the issuance of this Agreement and to its terms. The individuals executing this Agreement on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Agreement and to bind Respondent thereto.

Agreed this 26th day of April, 2013.

For Respondent Beazer East, Inc.

By: 

Title: President

In the matter of Standard Chlorine Chemical Company Superfund Site - CERCLA Docket No. 02-2013-2015

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Agreement. Respondent hereby consents to the issuance of this Agreement and to its terms. The individuals executing this Agreement on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Agreement and to bind Respondent thereto.

Agreed this ~~1st~~ day of April, 2013.

For Respondent Cooper Industries, LLC

By: Taras Szmagala
Taras Szmagala

Title: VP-Deputy General Counsel